

ONEIDA COUNTY BOARD OF ADJUSTMENT – PUBLIC HEARING
HEARING SUMMARY
MAY 30, 2018

Chair, Harland Lee, called the meeting to order at 1:00 P.M. in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Mr. Albert, “here”; Mr. Bloom, “here”; Mr. Hansen, “here”; Mr. Ross, “here”; Mr. Hammer, “here”; and Mr. Lee, “here”

Members absent: None

County staff members present: Pete Wegner, Assistant Director; and Julie Petraitis, Program Assistant

Other individuals present: See Sign in Sheet.

Chair, Harland Lee, stated that the meeting will be held in accordance with Wisconsin open meeting law and will be tape-recorded and sworn testimony will be transcribed. The Board of Adjustment asks that only one person speak at a time because of the difficulty in transcribing when several people are talking at once. The Board of Adjustment is made up of five regular members and one alternate, the alternate being present today, who will take part in the hearing until the public hearing is closed, at which time the alternate will not take part in the deliberation. Anyone wishing to testify must identify themselves by name, address, and interest in the appeal and shall be placed under oath.

Chairman Harland Lee swore in Mark Tilque and Pete Wegner.

Secretary Phil Albert read the notice of public hearing for Appeal No. 18-001 of Mark Tilque, owner, to appeal the denial of a Zoning Permit to build a 24 ft. x 24 ft. garage 55 ft. from the ordinary high water mark (OHWM) of Laurel Lake contrary to Section 9.94 A of the Oneida County Zoning and Shoreland Protection Ordinance. The property is located at 7219 Bonkowski Rd., further described as Section 3, T39N, R11E, Northwoods Plat, Lot 56, Town of Three Lakes, Oneida County, Wisconsin.

The Notice of Public Hearing was published in the Northwoods River News on May 15 and May 22, 2018 and posted on the Courthouse bulletin board on May 11, 2018. Mr. Albert provided the proof of publication; and noted that the media was properly notified.

The Oneida County Board of Adjustment Rules of Procedure, Section 178.05(12), Chapter 17, Oneida County Code of Ordinance, provide that a timely appeal shall stay all proceedings and furtherance of the action appealed from, unless such stay would cause imminent peril to life or property.

The Board of Adjustment will conduct an onsite inspection of the property involved in this appeal beginning at approximately 10:00 am prior to the hearing. Pertinent property

boundaries and locations of existing and proposed structures shall be clearly identified. A representative or the appellant must be present. The inspection shall be open to the public.

Copies of appeals and related documents are available for public inspection during normal business hours at the Planning and Zoning Office, Oneida County Courthouse, Rhinelander, WI 54501. The Oneida County Zoning and Shoreland Protection Ordinance is available on the Internet at <http://www.co.oneida.wi.gov/>.

Secretary Albert stated that all media outlets were notified of the public hearing and the onsite inspection was conducted at approximately 10:00 on. , were present at the site along with all Board members and one alternate.

Prior to the public hearing the Board conducted an onsite inspection at 7219 Bonkowski Road, further described as Section 3, T39N, R11E, Northwoods Plat, Lot 56, Town of Three Lakes, Oneida County, Wisconsin. Property owner, Mark Tilque was present along with all Board members including Alternate, Ed Hammer and Zoning staff Diann Koshuta. Observations by the Board: The property boundaries were adequately marked, the highway/right-of-way were adequately marked on the right end 28' and the left side of the proposed structure was 30'. The well and sanitary facilities were located. It is a holding tank versus a septic field. The outlined proposed construction was well marked with flags and stakes. In terms of the existing structure, there were two sheds; a 7x10 and a 20x10 for a total of 270 square feet. A proposed 24 x 24 garage would encompass 576 feet. It was, by our measurement this morning, 60 foot from the ordinary high water mark, approximately six foot from the side boundary and to the right-of-way 30 foot on one end and 28 foot on the other. The other observation was that the proposed structure would be seven foot from the holding tank. The topography and condition of the land basically was dirt soil, some cut stumps and there is no curb and gutter on the Town Road. The depth of the lot was measured at 116 feet. The other observation was that the cottage is aged and the current driveway is dirt and gravel. It is a down entry turning left into the proposed garage. That includes the observations of the site visit.

Chair, Harland Lee, stated that the Board will hear testimony from the appellant/agent first and then the opposition. Following that, the appellant and opposition will have an opportunity for rebuttal and then closing statements. The public hearing will then be closed from further testimony. Consideration and additional questions can be asked by the Board members of the appellant or the opposition during deliberations. You may stay for the disposition of the appeal. Upon conclusion of the deliberation of the Board, the Chair will call for a motion and a second, and a roll call vote will be taken for the decision of the Board.

SWORN TESTIMONY-APPELLANT.

Mark Tilque, owner, began his testimony by stating that he doesn't completely understand the tree standards that need to be addressed. Mr. Tilque stated that the proposed is a 75 foot, you're asking for a 75' setback, which is impossible for the size of the lot. It is a small lot, it is not achievable at that. His plan is to remove the two storage buildings that are aged and dilapidated and put up something that is nice and that looks nice with the neighborhood. As you can see the neighborhood looks a lot nicer than what my place did. From that standpoint, it would improve

the looks of the neighborhood. It will give me a little bit more adequate storage for what my needs will be. We plan to retire up there. It will be nice to keep the car in the garage when you're retired and have a little extra room besides. The proposed is 24 x 24, which isn't a lot. The parcels grandfather status, I believe is 1964. Mr. Tilque is willing to listen to options to make it work. If he has to move it or make it smaller, he would be willing to do that. We've got the one issue to deal with, the 55' from the water.

Peter S. Wegner, Assistant Zoning Director, began his testimony by providing the Board with photos taken at the onsite this morning. He then testified that he discussed this property with Mr. Tilque months ago. Mr. Tilque had other proposals he was talking about then. One was replacing the home, one was averaging to try to accommodate his needs and the big one was the garage. We talked about the existing ordinance versus the new ordinance that is now in effect. This permit was denied under the previous ordinance. At the end of the day, it was decided that the best thing to do was to attempt to get a variance for a garage, knowing that under the new ordinance he could replace or go up or down with the cottage itself. So if he had a garage, as a separate structure and remove the two sheds it would be his best option at the time. When he submitted the permit, at that time I don't think it was 100% known what the applicable setbacks were. Mr. Wegner provided a drawing of the setbacks based on the survey. Again, he was looking at other projects and it was realized that the actual site measurements versus the survey measurements is an approximate difference of +/- ten (10) feet. That is due to two reasons; one is when Mark submitted the permit he was going off the stake at the water's edge, which is the meander line versus going to the water's edge. There is a five (5) foot difference there and also the actual location of that tank. If you look at the survey, that tank is in that vicinity but it is not 100%. When Diann measured from the vent it was at seven (7) feet. If you go out to the edge of the tank it is another two (2) feet, so it is real close to five (5) foot if you measure to the tank itself.

Mr. Lee asked a question about the location of the holding tank and the vent. Mr. Wegner stated that this drawing was prior to getting the measurements this morning. Mr. Wegner does not believe the survey shows an accurate location of the holding tank.

Mr. Wegner provided the Board with a second map of a drawing he did based on the measurements taken this morning. This shows the garage footprint of 25 x 26 to account for the eave, five (5) feet from the lot line and five (5) feet from the tank. Mr. Wegner stated that the lot gets narrower at the north end by approximately nine (9) feet. That puts his right-of-way measurement at 28'.

Mr. Wegner informed the Board that the DNR sent a letter with their opinion. The Board did not request it, but Mr. Wegner said he would comment on it if they want him to. The DNR is basically saying there is a compliant location on the property. He does not agree with that because he doesn't feel consideration was given to actual site measurements that weren't technically obtained until today and the fact that the lot narrows as you go to the north. In addition, the tank, based on the survey, is not believed to be 100% accurately located. Comments were also made by the DNR regarding a pattern of development along that right-of-way stating that if you can't find a compliant location you could move it closer to the right-of-way. The closest structure from the right-of-way

is actually 16.66 feet. The rest are 21, 31, 26, feet so there really isn't a pattern of development of less than 20 feet, unless he is missing something. In the DNR letter, it was stated that it would be better to be further from the ordinary high water mark, closer to the right-of-way. They were under the assumption that there was a compliant location. Mr. Wegner does not agree with that.

Mr. Tilque is willing to listen to options or consider other possible locations. The drawing shows what he wants. It is nice that he is offering to remove the two existing sheds, one of which he could replace within its footprint because it meets all the applicable setbacks. The other one he can't do anything to because it is less than five (5) feet to the lot line. He thinks he could fit a smaller garage in a compliant location. But you're looking at a garage, without messing with that septic tank, that is approximately 15 feet smaller. It's a matter of what you feel is reasonable. That is cutting it pretty small, especially when you're starting with a 24 x 24 foot garage. The other issue is he could move it to the north. That would give him more space, a larger garage; he could come back to the right-of-way eight (8) more feet. At the end of the day, without decreasing the size to at least 20' he's not going to meet all the applicable setbacks of right-of-way and ordinary high water mark. I think the difference, if you move it to that driveway area, is

Mr. Lee asked that no matter what he does he's going to need a variance. Mr. Wegner stated he believes so.

Mr. Hammer asked if a variance regarding the lakeside is a better option than a variance for the road setback. Mr. Wegner feels it's always a better option to be further back from the water and closer to the road. If he goes closer to the north lot line, he will lose his driveway and then he'll have issues with parking and the holding tank and the line that goes to the tank. The fact that he's willing to get rid of the two existing sheds, if he can make it fit based on the setback measurements that were taken today, the County doesn't have an argument.

If you were to grant a variance of anything, I would like to have the removal of the sheds as part of it.

Chair Lee closed the public portion of the public hearing.

Motion by Phil Albert, second by Norris Ross to approve the variance based on Pete's recommendation for the location of the garage at 60' from ordinary high water mark, with the removal of the two existing sheds, it be adequately spaced from the holding tank and vent, the second story of the proposed garage not be used for anything other than storage and no boathouse. With all members present voting "aye" on roll call vote, the motion carried.

Motion by Ed Hammer, second by John Bloom to adjourn the public hearing and resume the recessed portion of the meeting. With all members present voting "aye", the motion carried.

1:43 p.m. Chair Lee called the recessed portion of the meeting from this morning to order.

Update on zoning statutes and ordinance amendments.

1. Meal reimbursement.

No action taken.

Current Business:

- a. Approve any available bills. None.
- b. Consider current and pending appeals to BOA.
 1. D&S Vacation Properties, Cory Schlagel, including DNR opinion.

Pete will request the DNR opinion to be received by June 13, 2018.

Review/revise meeting/hearing calendar.

1. Schedule date for D&S Vacation Properties, Cory Schlagel, appeal.
June 21, 2018 at 8:30 a.m.

Motion by Guy Hansen, second by Phil Albert to have the decision to be completed and sent out by June 13, 2018. With all members present voting “aye”, the motion carried.

1:57 pm - The meeting was adjourned on a motion by Harland Lee and second by Phil Albert; and all members voting aye.

Harland Lee, Chairman

Phil Albert, Secretary